

ASSEMBLY BILL

No. 315

Introduced by Assembly Member Wood

February 6, 2017

An act to amend Sections 4100, 4107.5, 4201, and 4400 of, and to add Sections 4037.5 and 4053.2 to, and to add Article 25 (commencing with Section 4427) to Chapter 9 of Division 2 of, the Business and Professions Code, relating to pharmacy benefits.

LEGISLATIVE COUNSEL'S DIGEST

AB 315, as introduced, Wood. Pharmacy benefits management.

Existing law, the Pharmacy Law, provides for the licensure and regulation of pharmacists and pharmacies by the California State Board of Pharmacy. A violation of the Pharmacy Law is a crime. Existing law also imposes requirements on audits of pharmacy services provided to beneficiaries of a health benefit plan, as specified.

This bill would require pharmacy benefit managers, as defined, and designated pharmacy benefits manager representatives to be licensed by the California State Board of Pharmacy, as prescribed, and would establish qualifications for the designated pharmacy benefits manager representative license. The bill would prescribe the duties of the designated pharmacy benefits manager representative, as specified. The bill would also require pharmacy benefit managers to make specified disclosures to the board on an annual basis, as specified. The bill would make conforming changes to related provisions. Because a violation of these provisions under the Pharmacy Law would be a crime, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. (a) Pharmacy benefit managers (PBMs) were
2 formed over 40 years ago to assist insurers and employers in
3 managing prescription drug benefits for employees and insureds.
4 PBMs are used by many health plans, self-insured employers, and
5 government payers to deliver medications to their beneficiaries.
6 The three largest PBMs provide prescription drug coverage to
7 more than 200 million Americans or roughly 78 percent of
8 Americans whose pharmacy benefits are managed by a PBM.

9 (b) According to a Kaiser Family Foundation publication, PBMs
10 have evolved from basic claims administrators to more complex
11 organizations offering a wide range of prescription drug managed
12 tools, such as drug utilization review, disease management, and
13 consultative services. PBMs can also assist clients with establishing
14 their benefit structure, including developing and maintaining a
15 prescription drug formulary, developing a network of pharmacy
16 providers, and providing mail order fulfillment services. PBMs
17 may achieve savings for their customers by negotiating discounts
18 with drug manufacturers and through cost containment programs,
19 including use of formularies and cost sharing. PBMs were effective
20 in negotiating prices that initially reduced prescription drug prices,
21 and held those costs in check.

22 (c) In recent years, there have been concerns raised regarding
23 the value of PBMs. Consumer advocates argue manufacturer rebate
24 money causes PBMs to favor more costly brand-name drugs over
25 generic or lower-cost, therapeutically equivalent brand-name drugs
26 and that the business practices of PBMs generally lack
27 transparency.

28 (d) Additionally, mergers between PBMs and pharmaceutical
29 manufacturers and large pharmacy chains have also occurred.
30 Concerns of potential conflict of interest, inhibiting competition

1 in the dispensing of prescription drugs, actual increased
2 out-of-pocket costs for consumers, and denying consumer choice,
3 and whether employers and insurers have received a reasonable
4 and fair share of the discounts and other price concessions PMBs
5 negotiated on their behalf, are some of the biggest concerns.

6 (e) States like Arkansas, Georgia, Iowa, Kansas, Mississippi,
7 North Dakota, South Dakota, Vermont, and Washington have
8 enacted laws to regulate the practice of PBMs.

9 (f) Currently, PBMs in California are unregulated. This lack of
10 oversight coupled with a lack of transparency regarding business
11 operations has generated numerous questions. In order to address
12 questions that have been raised about whether the industry fully
13 discloses how much it is actually saving insurer and employer
14 clients and what portion of those savings are actually passed along
15 to consumers, the Legislature needs to address this issue through
16 the regulation of PBMs.

17 SEC. 2. Section 4037.5 is added to the Business and Professions
18 Code, to read:

19 4037.5. (a) “Pharmacy benefit manager” means a person,
20 business, or other entity that, pursuant to a contract or under an
21 employment relationship with a carrier, health benefit plan sponsor,
22 or other third-party payer, either directly or through an
23 intermediary, manages the prescription drug coverage provided
24 by the carrier, plan sponsor, or other third-party payer, including,
25 but not limited to, the processing and payment of claims for
26 prescription drugs, the performance of drug utilization review, the
27 processing of drug prior authorization requests, the adjudication
28 of appeals or grievances related to prescription drug coverage,
29 contracting with network pharmacies, and controlling the cost of
30 covered prescription drugs.

31 (b) “Pharmacy benefit manager” shall not include a nonprofit,
32 tax-exempt California licensed health plan that contracts with no
33 more than two medical groups in the state, or to its affiliated
34 entities, or any information exchanged pursuant to their contracts
35 with organizations to administer their pharmacy benefits and
36 services.

37 SEC. 3. Section 4053.2 is added to the Business and Professions
38 Code, to read:

39 4053.2. (a) Notwithstanding Section 4051, the board shall
40 issue a license to a pharmacist or a qualified individual as a

1 designated pharmacy benefits manager representative to provide
2 sufficient and qualified supervision of a pharmacy benefit manager.
3 Each pharmacy benefit manager shall designate a pharmacy
4 benefits manager representative to protect the public health and
5 safety in the handling, storage, warehousing, distribution, and
6 shipment of dangerous drugs and dangerous devices for each of
7 the pharmacy benefit manager's premises.

8 (b) An individual who is at least 18 years of age may apply for
9 a designated pharmacy benefits manager representative license.
10 In order to obtain and maintain that license, the individual shall
11 meet all of the following requirements:

12 (1) He or she shall be a high school graduate or possess a
13 General Education Development certificate equivalent.

14 (2) He or she shall meet one of the following requirements:

15 (A) Have a minimum of one year of paid work experience in
16 the past three years with a pharmacy benefit manager.

17 (B) Have a minimum of one year of paid work experience in
18 the past three years in a licensed pharmacy, or with a drug
19 wholesaler, drug distributor, or drug manufacturer, performing
20 duties related to the distribution or dispensing of dangerous drugs
21 or dangerous devices.

22 (3) (A) He or she shall complete a training program approved
23 by the board that, at a minimum, addresses each of the following
24 subjects:

25 (i) Knowledge and understanding of California law and federal
26 law relating to the distribution of dangerous drugs and dangerous
27 devices.

28 (ii) Knowledge and understanding of California law and federal
29 law relating to the distribution of controlled substances.

30 (iii) Knowledge and understanding of quality control systems.

31 (iv) Knowledge and understanding of the United States
32 Pharmacopoeia or federal Food and Drug Administration standards
33 relating to the safe storage, handling, and transport of dangerous
34 drugs and dangerous devices.

35 (B) The board may, by regulation, require the training program
36 required under this paragraph to include additional material.

37 (C) The board shall not issue a license as a designated pharmacy
38 benefits manager representative until the applicant provides proof
39 of completion of the training required by this paragraph to the
40 board.

1 (c) A pharmacy benefit manager shall not operate without at
2 least one designated pharmacy benefits manager representative
3 present at each of its licensed places of business.

4 (d) A pharmacist licensed in California and fulfilling the duties
5 of a designated pharmacy benefits manager representative as
6 specified in subdivision (a) shall not be required to obtain a
7 separate license as a designated pharmacy benefits manager
8 representative.

9 SEC. 4. Section 4100 of the Business and Professions Code is
10 amended to read:

11 4100. ~~(a)~~ Within 30 days after changing his or her address of
12 record with the board or after changing his or her name according
13 to law, a pharmacist, intern pharmacist, technician, ~~or~~ designated
14 ~~representative~~ representative, or designated pharmacy benefits
15 manager representative shall notify the executive officer of the
16 board of the change of address or change of name.

17 ~~(b) This section shall become operative on January 1, 2006.~~

18 SEC. 5. Section 4107.5 of the Business and Professions Code
19 is amended to read:

20 4107.5. If a manufacturer, wholesaler, third-party logistics
21 provider, *pharmacy benefit manager*, or pharmacy has reasonable
22 cause to believe that a dangerous drug or dangerous device in, or
23 having been in, its possession is counterfeit or the subject of a
24 fraudulent transaction, the manufacturer, wholesaler, third-party
25 logistics provider, *pharmacy benefit manager*, or pharmacy shall
26 notify the board within 72 hours of obtaining that knowledge. This
27 section shall apply to any dangerous drug or dangerous device that
28 has been sold or distributed in or through this state.

29 SEC. 6. Section 4201 of the Business and Professions Code is
30 amended to read:

31 4201. (a) Each application to conduct a pharmacy, *pharmacy*
32 *benefit manager*, wholesaler, third-party logistics provider,
33 veterinary food-animal drug retailer, or outsourcing facility shall
34 be made on a form furnished by the board and shall state the name,
35 address, usual occupation, and professional qualifications, if any,
36 of the applicant. If the applicant is other than a natural person, the
37 application shall state the information as to each person beneficially
38 interested therein or any person with management or control over
39 the license.

(b) As used in this section, and subject to subdivision (c), the term “person beneficially interested” means and includes:

(1) If the applicant is a partnership or other unincorporated association, each partner or member.

(2) If the applicant is a corporation, each of its officers, directors, and stockholders, provided that a natural person shall not be deemed to be beneficially interested in a nonprofit corporation.

(3) If the applicant is a limited liability company, each officer, manager, or member.

(c) If the applicant is a partnership or other unincorporated association, a limited liability company, or a corporation, and the number of partners, members, or stockholders, as the case may be, exceeds five, the application shall so state, and shall further state the information required by subdivision (a) as to each of the five partners, members, or stockholders who own the five largest interests in the applicant entity. Upon request by the executive officer, the applicant shall furnish the board with the information required by subdivision (a) as to partners, members, or stockholders not named in the application, or shall refer the board to an appropriate source of that information.

(d) The application shall contain a statement to the effect that the applicant has not been convicted of a felony and has not violated any of the provisions of this chapter. If the applicant cannot make this statement, the application shall contain a statement of the violation, if any, or reasons which will prevent the applicant from being able to comply with the requirements with respect to the statement.

(e) Upon the approval of the application by the board and payment of the fee required by this chapter for each pharmacy, *pharmacy benefit manager*, wholesaler, third-party logistics provider, or veterinary food-animal drug retailer, the executive officer of the board shall issue a license to conduct a pharmacy, wholesaler, third-party logistics provider, veterinary food-animal drug retailer, or outsourcing facility if all of the provisions of this chapter have been complied with.

(f) Notwithstanding any other law, the pharmacy license shall authorize the holder to conduct a pharmacy. The license shall be renewed annually and shall not be transferable.

(g) *Notwithstanding any other law, the pharmacy benefit manager license shall authorize the holder to conduct business as*

1 *a pharmacy benefit manager as defined in Section 4037.5. The*
2 *license shall be renewed annually and shall not be transferable.*

3 ~~(g)~~

4 (h) Notwithstanding any other law, the wholesaler license shall
5 authorize the holder to wholesale dangerous drugs and dangerous
6 devices. The license shall be renewed annually and shall not be
7 transferable.

8 ~~(h)~~

9 (i) Notwithstanding any other law, the third-party logistics
10 provider license shall authorize the holder to provide or coordinate
11 warehousing, distribution, or other similar services of dangerous
12 drugs and dangerous devices. The license shall be renewed annually
13 and shall not be transferable.

14 ~~(i)~~

15 (j) Notwithstanding any other law, the veterinary food-animal
16 drug retailer license shall authorize the holder to conduct a
17 veterinary food-animal drug retailer and to sell and dispense
18 veterinary food-animal drugs as defined in Section 4042.

19 ~~(j)~~

20 (k) For licenses referred to in subdivisions (f), (g), (h), ~~and~~ (i),
21 ~~and~~ (j), any change in the proposed beneficial ownership interest
22 shall be reported to the board within 30 days thereafter upon a
23 form to be furnished by the board.

24 SEC. 7. Section 4400 of the Business and Professions Code,
25 as added by Section 26 of Chapter 799 of the Statutes of 2016, is
26 amended to read:

27 4400. The amount of fees and penalties prescribed by this
28 chapter, except as otherwise provided, is that fixed by the board
29 according to the following schedule:

30 (a) The fee for a nongovernmental pharmacy license shall be
31 five hundred twenty dollars (\$520) and may be increased to five
32 hundred seventy dollars (\$570). The fee for the issuance of a
33 temporary nongovernmental pharmacy permit shall be two hundred
34 fifty dollars (\$250) and may be increased to three hundred
35 twenty-five dollars (\$325).

36 (b) The fee for a nongovernmental pharmacy license annual
37 renewal shall be six hundred sixty-five dollars (\$665) and may be
38 increased to nine hundred thirty dollars (\$930).

1 (c) The fee for the pharmacist application and examination shall
2 be two hundred sixty dollars (\$260) and may be increased to two
3 hundred eighty-five dollars (\$285).

4 (d) The fee for regrading an examination shall be ninety dollars
5 (\$90) and may be increased to one hundred fifteen dollars (\$115).
6 If an error in grading is found and the applicant passes the
7 examination, the regrading fee shall be refunded.

8 (e) The fee for a pharmacist license shall be one hundred
9 ninety-five dollars (\$195) and may be increased to two hundred
10 fifteen dollars (\$215). The fee for a pharmacist biennial renewal
11 shall be three hundred sixty dollars (\$360) and may be increased
12 to five hundred five dollars (\$505).

13 (f) The fee for a nongovernmental wholesaler or third-party
14 logistics provider license and annual renewal shall be seven
15 hundred eighty dollars (\$780) and may be increased to eight
16 hundred twenty dollars (\$820). The application fee for any
17 additional location after licensure of the first 20 locations shall be
18 three hundred dollars (\$300) and may be decreased to no less than
19 two hundred twenty-five dollars (\$225). A temporary license fee
20 shall be seven hundred fifteen dollars (\$715) and may be decreased
21 to no less than five hundred fifty dollars (\$550).

22 (g) The fee for a hypodermic license shall be one hundred
23 seventy dollars (\$170) and may be increased to two hundred forty
24 dollars (\$240). The fee for a hypodermic license renewal shall be
25 two hundred dollars (\$200) and may be increased to two hundred
26 eighty dollars (\$280).

27 (h) (1) The fee for application, investigation, and issuance of
28 a license as a designated representative pursuant to Section 4053,
29 or as a designated representative-3PL pursuant to Section 4053.1,
30 shall be one hundred fifty dollars (\$150) and may be increased to
31 two hundred ten dollars (\$210).

32 (2) The fee for the annual renewal of a license as a designated
33 representative or designated representative-3PL shall be two
34 hundred fifteen dollars (\$215) and may be increased to three
35 hundred dollars (\$300).

36 (i) (1) The fee for the application, investigation, and issuance
37 of a license as a designated representative for a veterinary
38 food-animal drug retailer pursuant to Section 4053 shall be one
39 hundred fifty dollars (\$150) and may be increased to two hundred
40 ten dollars (\$210).

1 (2) The fee for the annual renewal of a license as a designated
2 representative for a veterinary food-animal drug retailer shall be
3 two hundred fifteen dollars (\$215) and may be increased to three
4 hundred dollars (\$300).

5 (j) (1) The application fee for a nonresident wholesaler or
6 third-party logistics provider license issued pursuant to Section
7 4161 shall be seven hundred eighty dollars (\$780) and may be
8 increased to eight hundred twenty dollars (\$820).

9 (2) For nonresident wholesalers or third-party logistics providers
10 that have 21 or more facilities operating nationwide the application
11 fees for the first 20 locations shall be seven hundred eighty dollars
12 (\$780) and may be increased to eight hundred twenty dollars
13 (\$820). The application fee for any additional location after
14 licensure of the first 20 locations shall be three hundred dollars
15 (\$300) and may be decreased to no less than two hundred
16 twenty-five dollars (\$225). A temporary license fee shall be seven
17 hundred fifteen dollars (\$715) and may be decreased to no less
18 than five hundred fifty dollars (\$550).

19 (3) The annual renewal fee for a nonresident wholesaler license
20 or third-party logistics provider license issued pursuant to Section
21 4161 shall be seven hundred eighty dollars (\$780) and may be
22 increased to eight hundred twenty dollars (\$820).

23 (k) The fee for evaluation of continuing education courses for
24 accreditation shall be set by the board at an amount not to exceed
25 forty dollars (\$40) per course hour.

26 (l) The fee for an intern pharmacist license shall be one hundred
27 sixty-five dollars (\$165) and may be increased to two hundred
28 thirty dollars (\$230). The fee for transfer of intern hours or
29 verification of licensure to another state shall be twenty-five dollars
30 (\$25) and may be increased to thirty dollars (\$30).

31 (m) The board may waive or refund the additional fee for the
32 issuance of a license where the license is issued less than 45 days
33 before the next regular renewal date.

34 (n) The fee for the reissuance of any license, or renewal thereof,
35 that has been lost or destroyed or reissued due to a name change
36 shall be thirty-five dollars (\$35) and may be increased to forty-five
37 dollars (\$45).

38 (o) The fee for the reissuance of any license, or renewal thereof,
39 that must be reissued because of a change in the information, shall

1 be one hundred dollars (\$100) and may be increased to one hundred
2 thirty dollars (\$130).

3 (p) It is the intent of the Legislature that, in setting fees pursuant
4 to this section, the board shall seek to maintain a reserve in the
5 Pharmacy Board Contingent Fund equal to approximately one
6 year's operating expenditures.

7 (q) The fee for any applicant for a nongovernmental clinic
8 license shall be five hundred twenty dollars (\$520) for each license
9 and may be increased to five hundred seventy dollars (\$570). The
10 annual fee for renewal of the license shall be three hundred
11 twenty-five dollars (\$325) for each license and may be increased
12 to three hundred sixty dollars (\$360).

13 (r) The fee for the issuance of a pharmacy technician license
14 shall be one hundred forty dollars (\$140) and may be increased to
15 one hundred ninety-five dollars (\$195). The fee for renewal of a
16 pharmacy technician license shall be one hundred forty dollars
17 (\$140) and may be increased to one hundred ninety-five dollars
18 (\$195).

19 (s) The fee for a veterinary food-animal drug retailer license
20 shall be four hundred thirty-five dollars (\$435) and may be
21 increased to six hundred ten dollars (\$610). The annual renewal
22 fee for a veterinary food-animal drug retailer license shall be three
23 hundred thirty dollars (\$330) and may be increased to four hundred
24 sixty dollars (\$460).

25 (t) The fee for issuance of a retired license pursuant to Section
26 4200.5 shall be thirty-five dollars (\$35) and may be increased to
27 forty-five dollars (\$45).

28 (u) The fee for issuance of a nongovernmental sterile
29 compounding pharmacy license shall be one thousand six hundred
30 forty-five dollars (\$1,645) and may be increased to two thousand
31 three hundred five dollars (\$2,305). The fee for a temporary license
32 shall be five hundred fifty dollars (\$550) and may be increased to
33 seven hundred fifteen dollars (\$715). The annual renewal fee of
34 the license shall be one thousand three hundred twenty-five dollars
35 (\$1,325) and may be increased to one thousand eight hundred
36 fifty-five dollars (\$1,855).

37 (v) The fee for the issuance of a nonresident sterile compounding
38 pharmacy license shall be two thousand three hundred eighty
39 dollars (\$2,380) and may be increased to three thousand three
40 hundred thirty-five dollars (\$3,335). The annual renewal of the

1 license shall be two thousand two hundred seventy dollars (\$2,270)
2 and may be increased to three thousand one hundred eighty dollars
3 (\$3,180). In addition to paying that application fee, the nonresident
4 sterile compounding pharmacy shall deposit, when submitting the
5 application, a reasonable amount, as determined by the board,
6 necessary to cover the board's estimated cost of performing the
7 inspection required by Section 4127.2. If the required deposit is
8 not submitted with the application, the application shall be deemed
9 to be incomplete. If the actual cost of the inspection exceeds the
10 amount deposited, the board shall provide to the applicant a written
11 invoice for the remaining amount and shall not take action on the
12 application until the full amount has been paid to the board. If the
13 amount deposited exceeds the amount of actual and necessary
14 costs incurred, the board shall remit the difference to the applicant.

15 (w) The fee for the issuance of an outsourcing facility license
16 shall be two thousand two hundred seventy dollars (\$2,270) and
17 may be increased to up to three thousand one hundred eighty
18 dollars (\$3,180) by the board. The fee for the renewal of an
19 outsourcing facility license shall be one thousand three hundred
20 twenty-five dollars (\$1,325) and may be increased to up to one
21 thousand eight hundred fifty-five dollars (\$1,855) by the board.
22 The fee for a temporary outsourcing facility license shall be seven
23 hundred fifteen dollars (\$715).

24 (x) The fee for the issuance of a nonresident outsourcing facility
25 license shall be two thousand three hundred eighty dollars (\$2,380)
26 and may be increased to up to three thousand three hundred
27 thirty-five dollars (\$3,335) by the board. The fee for the renewal
28 of a nonresident outsourcing facility license shall be two thousand
29 two hundred seventy dollars (\$2,270) and may be increased to up
30 to three thousand one hundred eighty dollars (\$3,180) by the board.
31 In addition to paying that application fee, the nonresident
32 outsourcing facility shall deposit, when submitting the application,
33 a reasonable amount, as determined by the board, necessary to
34 cover the board's estimated cost of performing the inspection
35 required by Section 4129.2. If the required deposit is not submitted
36 with the application, the application shall be deemed to be
37 incomplete. If the actual cost of the inspection exceeds the amount
38 deposited, the board shall provide to the applicant a written invoice
39 for the remaining amount and shall not take action on the
40 application until the full amount has been paid to the board. If the

1 amount deposited exceeds the amount of actual and necessary
2 costs incurred, the board shall remit the difference to the applicant.

3 (y) The fee for the issuance of a centralized hospital packaging
4 license shall be eight hundred twenty dollars (\$820) and may be
5 increased to one thousand one hundred fifty dollars (\$1,150). The
6 annual renewal of the license shall be eight hundred five dollars
7 (\$805) and may be increased to one thousand one hundred
8 twenty-five dollars (\$1,125).

9 (z) (1) *The application fee for a pharmacy benefits manager*
10 *representative license shall be ____ dollars (\$____) and may be*
11 *decreased to no less than ____ dollars (\$____).*

12 (2) *The application fee for a pharmacy benefit manager license*
13 *shall be ____ dollars (\$____) and may be decreased to no less than*
14 *____ dollars (\$____).*

15 (3) *The licensure fee imposed under this subdivision shall not*
16 *exceed the actual administrative costs in administering the*
17 *provisions relating to the licensure and regulation of those*
18 *licensees.*

19 ~~(z)~~

20 (aa) This section shall become operative on July 1, 2017.

21 SEC. 8. Article 25 (commencing with Section 4427) is added
22 to Chapter 9 of Division 2 of the Business and Professions Code,
23 to read:

24
25 Article 25. Pharmacy Benefit Managers

26
27 4427. (a) (1) A person or entity shall not act as pharmacy
28 benefit manager for any dangerous drug or dangerous device unless
29 he, she, or it has obtained a license from the board.

30 (2) (A) A pharmacy benefit manager shall disclose to the board
31 the location, names, and titles of all of the following:

32 (i) Its agent for service of process in this state.

33 (ii) All pharmacists of the pharmacy benefit manager who are
34 dispensing controlled substances, dangerous drugs, or dangerous
35 devices to residents of this state.

36 (iii) The designated pharmacy benefits management
37 representative by location.

38 (B) This information shall be made on an annual basis and
39 within 30 days after any change of office, corporate officer, partner,
40 or pharmacist.

1 (b) Upon approval by the board and the payment of the required
2 fee, the board shall issue a license to the applicant.

3 (c) (1) Each place of business of a pharmacy benefit manager
4 in California shall be supervised and managed by a designated
5 pharmacy benefits management representative. The designated
6 pharmacy benefits management representative shall be responsible
7 for the pharmacy benefit manager's compliance with state and
8 federal laws.

9 (2) As part of its initial application for a license, and for each
10 renewal, each pharmacy benefit manager shall, on a form designed
11 by the board, provide identifying information and the California
12 license number for a designated pharmacy benefits management
13 representative or pharmacist proposed to serve as the designated
14 representative-in-charge.

15 (3) The board shall not issue or renew a pharmacy benefit
16 manager license without identification of an approved designated
17 pharmacy benefits management representative.

18 (4) The designated pharmacy benefits management
19 representative shall maintain an active license as a designated
20 pharmacy benefits management representative with the board at
21 all times during which he or she is designated as the designated
22 pharmacy benefits management representative.

23 (d) A pharmacy benefit manager shall notify the board in
24 writing, on a form designed by the board, within 30 days of the
25 date when a designated pharmacy benefits management
26 representative ceases to act as the designated pharmacy benefits
27 management representative, and shall on the same form propose
28 another designated pharmacy benefits management representative
29 or pharmacist to take over as the designated pharmacy benefits
30 management representative.

31 (e) (1) The board may issue a temporary license, upon
32 conditions and for periods of time as the board determines to be
33 in the public interest. A temporary license fee shall be required in
34 an amount established by the board as specified in subdivision (z)
35 of Section 4400.

36 (2) When needed to protect public safety, a temporary license
37 may be issued for a period not to exceed 180 days, subject to terms
38 and conditions that the board deems necessary.

39 (3) If the board determines that a temporary license was issued
40 by mistake or denies the application for a permanent license, the

1 temporary license shall terminate upon either personal service of
2 the notice of termination upon the licenseholder or service by
3 certified mail, return receipt requested, at the licenseholder's
4 address of record with the board, whichever occurs first.

5 (4) Neither for purposes of retaining a temporary license, nor
6 for purposes of any disciplinary or license denial proceeding before
7 the board, shall the temporary licenseholder be deemed to have a
8 vested property right or interest in the license.

9 4428. (a) A pharmacy benefit manager shall provide the
10 information described in this section to the board, on an annual
11 basis covering the contract year and in such form and manner as
12 the board shall specify:

13 (1) For California residents whose prescription drug benefit is
14 managed by the pharmacy benefit manager, the percentage of all
15 oral prescriptions and self-administered drugs that were dispensed
16 through pharmacies affiliated with the pharmacy benefit manager
17 and the percentage of oral and self-administered drugs dispensed
18 through retail pharmacies.

19 (2) The aggregate amount of discounts or price concessions
20 (excluding bona fide service fees, which include, but are not limited
21 to, distribution service fees, inventory management fees, product
22 stocking allowances, and fees associated with administrative
23 services agreements and patient care programs (such as medication
24 compliance programs and patient education programs)) that the
25 pharmacy benefit manager received from manufacturers of
26 prescription drugs that were attributable to utilization by California
27 residents whose prescription drug benefit was managed by a
28 pharmacy benefit manager.

29 (3) The aggregate amount, and the type of rebates, discounts,
30 or price concessions (excluding bona fide services, which include,
31 but are not limited to, distribution service fees, inventory
32 management fees, product stocking allowances, and fees associated
33 with administrative service agreements and patient care programs
34 (such as medication compliance programs and patient education
35 programs)) provided to health care service plans, as defined in
36 subdivision (f) of Section 1345 of the Health and Safety Code, and
37 health insurers, as defined in subdivision (b) of Section 106 of the
38 Insurance Code, and that are attributable to patient utilization under
39 the plan, and the aggregate amount of the rebates, discounts, or

1 price concessions that are passed through to enrollees and the total
2 number of prescriptions dispensed.

3 (b) The board shall make the information provided by pharmacy
4 benefit managers in subdivision (a) available as part of its annual
5 report.

6 4429. The board has the authority to enforce the provisions of
7 this article, including the authority to adopt, amend, or repeal any
8 rules and regulations, not inconsistent with the laws of this state,
9 as may be necessary for the protection of the public and to
10 implement this article.

11 SEC. 9. No reimbursement is required by this act pursuant to
12 Section 6 of Article XIII B of the California Constitution because
13 the only costs that may be incurred by a local agency or school
14 district will be incurred because this act creates a new crime or
15 infraction, eliminates a crime or infraction, or changes the penalty
16 for a crime or infraction, within the meaning of Section 17556 of
17 the Government Code, or changes the definition of a crime within
18 the meaning of Section 6 of Article XIII B of the California
19 Constitution.